

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD R. WAKELEY, JR.,

Plaintiff,

v.

COUNSELOR KEVIN LIGHTBODY,
Defendants.

NO: CV-11-5062-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT

1915(g)

Magistrate Judge Hutton filed a Report and Recommendation on November 21, 2011, recommending Mr. Wakeley's civil rights complaint be dismissed for failure to state a claim upon which relief may be granted, ECF No. 17. Specifically, Plaintiff's allegation that he was referred to various persons for photocopies on unspecified dates was insufficient to state an access to court claim under *Lewis v. Case*, 518 U.S. 343, 351-52 (1996). Furthermore, his allegations of verbal harassment did not state a constitutional deprivation under 42 U.S.C. § 1983. *Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987).

ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT -- 1

1 Although granted numerous opportunities to amend and then generous
2 extensions of time to file Objections, Plaintiff has not done so. There being no
3 objections, the court **ADOPTS** the Report and Recommendation. The Complaint,
4 ECF No. 10, is **DISMISSED WITH PREJUDICE** for failure to state a claim
5 upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
7 brings three or more civil actions or appeals which are dismissed as frivolous or for
8 failure to state a claim will be precluded from bringing any other civil action or
9 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
10 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
11 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**

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1 count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may
2 adversely affect his ability to file future claims.

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
4 Order, enter judgment, forward copies to Plaintiff at his last known address, and
5 close the file. The District Court Executive is further directed to forward a copy of
6 this Order to the Office of the Attorney General of Washington, Criminal Justice
7 Division. The Court certifies any appeal of this dismissal would not be taken in
8 good faith.

9 **DATED** this 13th day of January 2012.

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11 s/ Rosanna Malouf Peterson
12 ROSANNA MALOUF PETERSON
13 Chief United States District Court Judge
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